

N.D.A.G. Letter to Enget (Jan. 28, 1986)

January 28, 1986

Mr. Wade G. Enget
Mountrail County State's Attorney
Mountrail County Courthouse
P.O. Box 369
Stanley, ND 58784

Dear Mr. Enget:

Thank you for your letter of January 21, 1986, concerning the scope of N.D.C.C. § 23-27-04.1 as to liability for volunteer ambulance associations.

Enclosed you will find copies of letters written on this particular subject over the last few years. In both letters, the general thrust of this particular statute is restated. Simply put, the statute attempts to grant a qualified form of immunity to individuals who come within the purview of the statute and the circumstances described therein. As to whether or not one particular person or another satisfies the requirements of this statute and is eligible to receive the qualified immunity is a question of fact to be decided upon the facts and circumstances of each and every individual case.

An additional comment is in order. This particular state statute does not immunize such persons from federal civil rights violations; namely, 42 U.S.C. 1983. Liability under this particular federal law may exist despite the granting of qualified immunity provided by N.D.C.C. § 23-27-04.1.

Sincerely,

Nicholas J. Spaeth

ja
Enclosure